Supreme Court, U.S.
FILED

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001591 APR 16 2001

No. _____ OFFICE OF THE CLERK

IN THE

# Supreme Court Of The United States

BEVERLY A. RIDDLE

PETITIONER

VS.

LIZ CLAIBORNE, KATHY ROBSON, KATHERINE HUDSON, SHELLEY O'CONNELL

RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI
TO THE
U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT

## PETITION FOR WRIT OF CERTIORARI

BEVERLY A. RIDDLE
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NEW YORK, NY 10001
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103 RP

## QUESTIONS PRESENTED TO THE UNITED STATES SUPREME COURT FOR REVIEW

Pursuant to Supreme Court Rule 14 section 1(a).

1) Where The United States Court of Appeals for the Second Circuit Federal Court of Appeals has dismissed based upon jurisdiction, an appeal from an interlocutory order, does that United States Court of Appeals voluntarily abandon by decision the exclusive jurisdiction of an appeal from an interlocutory order, thereby granting an Appellant as a matter of judicial discretion to petition to The United States Supreme Court for a writ of certiorari, coram vobis?

2) Where a Plaintiff in a Lower Court has included within a Complaint several questions to be answered by the Defendants for the purpose of

discovery in that Lower Court and the Defendants have been Ordered to answer pursuant to Federal Rules of Civil Procedure 30(b)(6) and 31(a), does an evasive answer from the Defendants violate the Court Order?

3) Where a Plaintiff in a Lower Court has attached within a Complaint a request for those documents as alleged in a counterclaim by the Defendants, are the Defendants required to support their counterclaim as stipulated by the Court Order, dated September 19, 2000?

4) Where the Defendants imply but fail to directly answer, and imply but fail to provide those requested documents in support of their counterclaim, do the Defendants fail to obey the Court Order of the Lower Court?

5) Where Factual Dispute may be resolved and it is so Ordered by the Lower Court during pretrial hearing, yet another Order is made in the Lower Court to continue to trial before those Factual Dispute may be resolved, does the Lower Court Order to continue to trial violate the right of equal protection of the law and also the right of Due process of the Plaintiff who has properly requested Discovery pursuant to those Federal Rules of Civil Procedure 30(b)(6) and 31(a)?

**LIST OF ALL PARTIES**

[√] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceedings in the court whose judgment is the subject of this petition is as follows:

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U. S. Postal Money Order # 86091340735
for $300.00 dated 03/12/01 (Please see a copy of the aforementioned Money Order enclosed)

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Please see Appendix C - An excerpt from Questions 1 through 96 from the Plaintiff's Amended Complaint filed in the Southern District Court of New York on August 25, 2000 is herein provided to demonstrate the Defendants' filing of an Evasive Answer in violation of the Plaintiff's right to due process. The following excerpt of questions listed are Questions 4, 13, 17, 22, 25, 27, 28, 29, 30, 32, 35, 38, 40, 41, 42, 49, 50, 60, 61. The aforementioned Questions are accompanied by Plaintiff's Argument according to Supreme Court Rule 10.

**In The**

**Supreme Court of the United States**

**PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgments below, of The United States Court of Appeals (Second Circuit) and the Southern District Court of New York.

**OPINIONS BELOW**

[√] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A to the petition and is
[ ] reported at _____ ; or,
[ ] has been designated for publication but is not yet reported; or,
[√] is unpublished

The opinion of the United States district court appears at Appendix B to the petition and is
[ ] reported at _____ ; or,
[ ] has been designated for publication but is not yet reported; or
[√] is unpublished

[ ] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is
[ ] reported at _____ ; or,

[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished

The opinion of the _____court appears at Appendix _____to the petition and is
[ ] reported at _____ ; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished

**JURISDICTION**
**STATEMENT OF BASIS FOR JURISDICTION IN THE UNITED STATES SUPREME COURT**

1) Plaintiff, filed this action of petition to the United States Supreme Court for a writ of certiorari pursuant to U.S. Code Title 28 section 1252 and U.S. Code Title 28 section 2350 an Order granting an interlocutory injunction under 2349(b) of this title and a final judgment of the U.S. Court of Appeals for the Second Circuit dated February 8, 2001 in a proceeding to review under this chapter are subject to review by the Supreme Court on a writ of certiorari as provided

by section 1254(1) of this title. Pursuant to the U.S. Code Title 28 section 2101(a) and (e) a direct appeal to the Supreme Court from any decision under section 1253 of this title, holding unconstitutional in whole or in part, any Act of Congress, shall be taken within thirty days after the entry of the interlocutory of final order, judgment or decree. Whereby it is in accord with U.S. Code Title 28 section 1651(a) The Supreme Court and all courts established by an Act of Congress may issue all writs necessary or appropriate in aid to their respective jurisdictions and agreeable to the usage's and principles of law. The principal of and in law as brought forth for question as in accordance with U.S. Code Title 28 section 2072, Rules of procedure and evidence; power to prescribe. Where an Order to continue to trial without due process as provided

in accordance with equal protection of the law as provided by the United States Constitutional Amendment V and Amendment XIV as to include such Rules as that of the Federal Rules of Civil Procedure, Rule 1 and Rule 11b(3) and (4).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1) Amendment XIV- Citizenship rights, ratified 7/9/1868, Paragraph 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws.

2) Amendment XIV- Citizenship rights, ratified 7/9/1868, Paragraph 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

3) Amendment V- Trial and Punishment, Compensation for takings, Ratified 12/15/1791, Paragraph 1. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or Public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law, nor shall private

property be taken for public use, without just compensation.

4) Fed. R. Civ. P. Rule 11b(3) and (4) Representation to Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, (3) the allegations and other factual contentions have evidentiary support or, if specifically identified, are likely to have evidentiary support or, if after a reasonable opportunity for further investigation or discovery, and (4) the denials of factual contentions are warranted on the evidence

or, if specified, are reasonably based on a lack of information or belief.

## STATEMENT OF THE CASE

1) Issue of fact. In accordance with Federal Rules of Civil Procedure, Rule 30(b)(6) and 31(a) the Plaintiff presented a factual dispute in the complaint, the factual dispute could be resolved prior to or at pretrial hearings according to Federal Rules of Civil Procedure, Rule 1, by those written questions 1 through 96, of the complaint, which are based upon the Defendants counterclaim of poor job performance.

2) Where in the complaint the Plaintiff asked for material evidence for those claims as made by the Defendants counterclaim of poor job performance the order of November 27, 2000 presents a

conflict, which denies the Plaintiff the privilege of Discovery by assuming an answer was made pursuant to Federal Rules of Civil Procedure, Rule 30(b)(6) and 31(a), and thereby invoking a continuation to trial without first resolving those factual disputes that could be resolved as required by Federal Rules of Civil Procedure, Rule 1.

3) Whereby the Judge's order of November 27, 2000 is in conflict with the purpose of the order dated September 19, 2000, the order to continue to trial denies the Plaintiff a fundamental privilege of proper pretrial preparation, the order is a denial of United States Constitutional Amendment V of due process and Amendment XIV right of equal protection of the law with

regard to Federal Rules of Civil Procedure, Rule 1, Rule 11b(3) and (4).

4) Wherein the Defendants were so ordered by the Honorable Judge Mukasey to answer questions 1 through 96 the Defendants filed an Evasive answer the implication of an Evasive answer is intended and does succeed to evade the resolve of those factual disputes as presented in the Defendants counter- claim. As defined by Black's Law Dictionary is; A response that neither directly admits nor denies a question. In pleading, this is considered a failure to answer. Fed. R. Civ. P. 37(3). It is unreasonable to assume that the denials of specifically identified factual contentions are warranted on the evidence of the counterclaim by the Defendants.

5) Those answers as presented by the Defendants, whereby the Defendants claim lack of knowledge to their verified answer and position statement to the lower court of the New York City Commission on Human Rights present a Factual dispute Regarding Viable issues as demonstrated in such cases including 118 f. 3d 106, 74 FEP 956 (2d Cir. 1997)., where the court must look at the totality of the circumstances. It is unreasonable to assume that those allegations made by the Defendants in a counterclaim as specifically identified are likely to have evidentiary support after any further investigation is made. The error in law is further set forth in reference to case citing, Solesbee v. Balkcom, 339 U.S. 9, 16(1950) (Justice Frankfurter dissenting). Due process is violated if a practice or rule "offends some principle of justice so rooted in the

traditions and conscience of our people as to be ranked as fundamental."

6) A Motion for Discovery to reduce triable issues, thereby shortening the duration of the trial as requested by the Plaintiff at the Pre-Trial Conference on September 18, 2000 and as granted by Court Order dated September 19, 2000, was clearly intended to address specific questions, and does directly asks, "why?" the Defendants have said what they have said, or either directly asks "what?" the Defendants intended when they said they did or did not do, what they did or did not do in their counterclaim. Therefore it is reasonable to conclude that those are the questions intended for the Defendants to answer and were so ordered to answer by the Honorable Judge Mukasey. Clearly the

Defendants did not answered the questions accordingly as is seen in such Rules including Fed. R. Civ. P. 37(3), Fed. R. Civ. P, 36(a)

7) An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions as those presented for them to answer. Therefore by those laws that are reasonable the Court must examine whether the premise intended by the Defendants denial is to comply with those rules of discovery as to the possible existence of material or creditable evidence in the Defendant's counterclaim. Of course there is one interpretation that the intention of the Defendants is to deny the legal opinions of the complaint. However, even with such an interpretation the fact remains the same.

The Defendants did fail to answer questions 1 through 96, which are meant to bring to clarity by deposition or by a preponderance of evidence if interpretation of Defendant's assertion of a poor job performance issue in their counterclaim is a correct interpretation. The Constitutional construction is founded in the Fifth Amendment, suppression of evidence where the Defendants have waived the right of suppression of evidence by those admissions in their counterclaim. The error in law is set forth in reference to case citing, Hurtado v. California, 110 U.S. 516, 4 S. Ct. 111, 292., due process., where consideration of evidence for a claim, the plaintiff requested but was denied records, thus violating the Constitutional Rights of the plaintiff.

8) The phrase echoed by the Defendants

throughout questions 5-24 "Where Respondent's Liz Claiborne (the Company), Katherine Hudson, Shelly O'Connell, Kathy Robson et al, answer:" is made in reference to those Admissions as made by the Defendants. Yet the Defendants seemingly deny their own admission and all references to their admissions. Thus if the Defendants did not make the admission in questions 1 through 96, then for the sake of clarity and to make distinguishable if there was indeed an intent to commit perjury, who did make those admissions as referenced in questions 1 through 96. Once again, the Constitutional construction is founded in the United States Constitutional Amendment V, suppression of evidence and the United States Constitutional Amendment XIV, right of substantive and procedural due process. If the Defendant's admission is as they allege an issue

of poor job performance then logically the defense strategy is to maintain and provide support with evidence in kind to those alleged performance issues. Yet the Defendants continue to deny their own admissions in questions 1 through 96, and by that denial and with the lack of evidence to substantiate a counterclaim of a poor job performance issue, those admissions of a poor job performance issue as presented by the Defendants is a false claim, the plaintiff requested but was denied records. The error in law is set forth in reference including the case citing, Holmes v. Conway, 241 U.S. 624, 36 S. Ct. 681., who was without opportunity to prepare for trial. The Constitutional issue here, is founded on the Fourteenth Amendment of U.S. Constitution, right of equal protection of the law, whereby the Order as presented by the Honorable Judge

Mukasey and dated November 27, 2000 tends to discriminate against the Plaintiff Beverly A. Riddle. Accordingly, if a statute, or court rule, is capable of two constructions, one of which would render it constitutional and the other unconstitutional, the constitutional construction should be adopted. This as demonstrated in such cases including Allegheny County v. Maryland Casualty Co., D.C.Pa. 1940, 32 F.Supp. 297. The error in law is set forth in reference to include such case citing as, Covey v. Town of Somers, 351 U.S. 141(1956)., a person against whom a claim is made has the right to understand that claim.

9) As an issue of fact, it is noted that although the pre-trial defense pleading of the Fifth is sometimes used in pleading the Fifth Amendment privilege for suppression of evidence, during trial

preparation. It is made evident by the defense strategy of the Defendants, Liz Claiborne, Kathy Robson, Katherine Hudson, Shelley O'Connell, wherein their verified answer and position statement dated January 13, 1999 and February 16, 1999 respectively, where questions 1 through 96 in the (amended) complaint by the Plaintiff are drawn from those answers given by the Defendants, whereby the Defendants have voluntarily waived their Fifth Amendment privilege by the non general denial, counter-claim in the aforementioned verified answer and position statement. The Defendants are considered to have been directed by order to re-answer and resolve those factual disputes in questions 1 through 96 by Court Order accordingly, the Plaintiff requested but was denied records. The error in law is set forth in

reference to include such case citing as, Blackmer v. United States, 284 U.S. 421, 440, 52 S. Ct. 252., for a default by service of the order. Walker v. Sauvinet, 92 U.S. 90, 23 L. ed. 678., which points out a violation of equal protection of the law.

**REASONS FOR GRANTING THE PETITION**

1) Accordingly, Supreme Court Rule 10, Considerations of Governing Review on Certiorari. Where Appellate Jurisdiction is applicable under U.S. Const. Art. III, paragraph 2 vests appellate jurisdiction in the Supreme Court, and 28 U.S. Code sections 1291-1295 grant Appellate Jurisdiction to lower federal courts of appeals. I, Beverly A. Riddle, Plaintiff, Pro Se had appealed to the United States Court of Appeals for the Second Circuit, Appeals as of right, pursuant to U.S.

Constitutional Amendment V right of due process, and U.S. Constitutional Amendment XIV, right of equal protection, in the Judgment and Order for motion denied, Motion for Default Judgment pursuant to Rule 37(3); Evasive or incomplete answer, where the Defendants answer neither directly admit nor deny questions, and or Rule 36(a) Request for Admissions. Wherein a Factual Dispute Regarding Viable issues could have been resolved in reference to such rules including Rule 1, 118 F. 3d 106, 74 FEP 956 (2d Cir. 1997)., wherein it is stated that the court must look at the totality of the circumstances. In accordance with Rule 30(b)(6) or 31(a) as it may apply to this case, it is so stated that if a party fails to obey an order entered under Rule 26(f), sanctions for nondisclosure are provided by CPLR 3126 of the Federal Rules of Civil Procedure granting a

default judgment and that relief both legal and equitable as sought in the Motion for Default Judgment.

Entered in this action on the 27th day of November 2000

2) Where The United States Court of Appeals for the Second Circuit has dismissed based upon jurisdiction dated February 8, 2001, an appeal from an interlocutory order, it is my belief, as herein set forth that United States Court of Appeals voluntarily abandon by decision the exclusive jurisdiction of an appeal from an interlocutory order, thereby granting the Appellant the right by judicial discretion to petition to The United States Supreme Court for a writ of certiorari, coram vobis?

3) In accordance with Federal Rules of Civil Procedure, Rule 1, Rule 11b(3) and (4), Rule 30(b)(6) and Rule 31(a) the Plaintiff asked for a deposition on written questions 1 through 96, where there is a claim by the Defendants of poor job performance, and the order of November 27, 2000 to continue to trial without discovery does deny the Plaintiff the privilege of discovery.

4) In accordance with Rule 30(b)(6), Rule 31(a) and Rule 36(b) the Plaintiff asked for material evidence for those counterclaims as made by the Defendants of poor job performance, and the order of November 27, 2000 to continue to trial without discovery does deny the Plaintiff the privilege of discovery.

5) Whereby the Judge's order of November 27,

2000 denies the Plaintiff that privilege of a proper pretrial preparation, there is a denial of Constitutional Amendment XIV right of equal protection of the law.

6) Wherein the Defendants have filed a counterclaim of misconduct and poor job performance in the form of a Verified answer and Position statement dated January 13, 1999 and February 16, 1999 respectively in such allegations as made by the Defendants counterclaim, the Defendants have a particular burden of proof or onus probandi. This standard as set fourth by the middle burden of proof lies between the preponderance-of-the-evidence standard and the beyond-a-reason-of-doubt, whereby questions 1 through 96 were submitted for answer by the Defendants, pursuant to

Federal Rule of Civil Procedure, Rule 30 note 1 of Construction. Where there was no real claim of privilege in relation to questions asked of the Defendant on deposition, but where the objection was merely based on assertions of irrelevance. The error in law is set forth in reference to include such case citing as, Preyer v. U.S. Lines, Inc., D.C.Pa. 1974, 64 F.R.D. 430 affirmed 546 F.2d 418.

7) Wherein the Order dated November 27, 2000 motion for default judgment denied, the effect of the Order as presented by the Honorable Judge Mukasey is to continue to trial without allowing the Plaintiff pretrial preparation, pursuant to Federal Rules of Civil Procedure, Rule 30(b)(6) or 31(a) and Rule 26(f) request for Discovery. I, Beverly A. Riddle, Plaintiff, Pro Se had appealed to

the United States Court of Appeals for the Second Circuit, Appeals as of right, pursuant to U.S. Constitutional Amendment V right of due process, in the Judgment and Order for motion denied, Motion for Default Judgment pursuant to Rule 37(3); Evasive or incomplete answer, where the Defendants' answer neither directly admit nor deny questions, and or Fed. Rule. Civ. P. Rule 36(a) Request for Admissions. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Hurtado v. California, 110 U.S. 516, 4 S. Ct. 111, 292., in a similar due process issue for consideration of evidence for a claim.

8) Wherein the Order dated November 27, 2000

motion for default judgment denied, the effect of the Order as presented by the Honorable Judge Mukasey is to continue to trial without allowing equal protection of the law to the Plaintiff in pretrial preparation, pursuant to Federal Rules of Civil Procedure, Rule 30(b)(6) or 31(a) and Rule 26(f) request for Discovery. I, Beverly A. Riddle, Plaintiff, Pro Se had appealed to the United States Court of Appeals for the Second Circuit, Appeals as of right, pursuant to U.S. Constitutional Amendment XIV, right of equal protection of the law, in the Judgment and Order for motion denied, Motion for Default Judgment pursuant to Rule 37(3); Evasive or incomplete answer, where the Defendants answer neither directly admit nor deny questions, and or Rule 36(a) Request for Admissions. The error in law is set forth in reference to include such case citing as, Walker v.

Sauvinet, 92 U.S. 90, 23 L. ed. 678., in a similar issue for equal protection of the law.

## CONCLUSION

1) If it is the intention of the Court that justice must be served, it would quite naturally follow that there is a certain responsibility owed to any individual when damaging claims or counterclaims are made against person's. For the Court to set aside privilege to a party and damage those Constitutional rights of another party is an unquestionable cruelty upon the rights and freedoms of all Americans. Yet this is what has been done to the Plaintiff, Beverly A. Riddle. Furthermore, it is disturbing when a citizen is expected to tolerate those injustices committed against their Constitutional rights and freedoms because a large or wealthy corporation does not

find it in their best interest to answer those questions by which they have condemned the character and conduct of a good citizen. Our quest has been one for justice and the Plaintiff is aware that if she does not stand and fight for her rights and freedoms, she may certainly lose those rights and freedoms that are freely given to all other Americans.

2) We have herein demonstrated that the counterclaims of misconduct and poor job performance as made against the Plaintiff were made to convince the Plaintiff that she is a substandard employee in spite of her 20+ years of experience. Yet it is the violation of the Plaintiff's Constitutional and basic human rights that was part of a commitment by the Defendants to convince the Plaintiff that she is a sub-human

being who does not even deserve to have a proper answer to her questions. Most assuredly the Defendants were charged with a legal obligation to simply answer some questions brought on by their counterclaim against the (Plaintiff whereby) the Defendants failed to answer those questions as directed for those allegations in the Defendants counterclaim against the Plaintiff.

3) Essentially what has occurred is that the Defendants have filed a deposition (counterclaim) alleging misconduct or poor job performance to the Court simply because the Plaintiff filed a complaint alleging Discriminatory Practices and Retaliatory Acts against the Defendants. When the Defendants were ordered to provide material or creditable evidence in answer to specific questions for those statements made in the form

of their Verified Rebuttal (Answer) and Position statement. The Defendants denied those statements or at least this is the prevailing interpretation of those answers that the Plaintiff is expected to accept. And although the Defendants deny their own statements, which were made under oath, and they also say they are unable to gain sufficient information from the source of their Verified Rebuttal (Answer) and Position statement whereby the Defendants themselves are that source, the Plaintiff is expected to believe that those answers given by the Defendants are not an Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. The Defendants agreed to have the validity of

their counterclaim of poor job performance tested (upon the order of the judge) in pretrial discovery. Yet the order for pretrial discovery was abandoned by the lower Court without sufficient cause that would warrant denial of the Plaintiff's Constitutional right of due process and equal protection of the law. The error in law is set forth in reference case citing, Hurtado v. California, 110 U.S. 516, 4 S. Ct. 111, 292., in a similar due process issue for consideration of evidence for a claim. Walker v. Sauvinet, 92 U.S. 90, 23 L. ed. 678., a similar issue in equal protection of the law.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Beverly A. Riddle
Petitioner, Pro Se

Date: March 10, 2001

# APPENDIX

**APENDIX A**

S.D.N.Y.
00-CV-1374
Mukasey, C.J.

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

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At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, Foley Square, in the City of New York, on the 8th day of February two thousand and one,

Present:

Hon. Ellsworth Van Graafeiland,
Hon. Guido Calabresi,
Hon. Sonia Sotomayor,
Circuit Judges.

---

Beverly A. Riddle,

Plaintiff-Appellant,

v. 00-9607

Liz Claiborne, Kathy Robson,
Shelley O'Connell, Katherine Hudson,

Defendants-Appellees,

---

This Court has determined sua sponte that it lacks jurisdiction over this appeal because a final order has not been issued by the district court as contemplated by 28 U.S.C. § 1291. Therefore, it is ORDERED that the appeal is dismissed.

FOR THE COURT:

Roseann B. MacKechnie, Clerk

By: Lucille Carr

**APENDIX B**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|---|---|---|
| BEVERLY A. RIDDLE, Plaintiff, | : | |
| | : | 00 Civ. 1374 (MBM) |
| - against - | : | ORDER |
| LIZ CLAIBORNE, KATHY ROBSON, SHELLEY O'CONNELL, and KATHERINE HUDSON, Defendant, | : | |

MICHAEL B. MUKASEY, U.S.D.J.

As stated in this Court's October 22, 2000 order the firm of Grotta Glassman & Hoffman has appeared and answered the complaint on behalf of all defendants in this action. Accordingly, plaintiff's renewed motion for a default judgment is denied; as is plaintiff's motion to modify this Court's October 22, 2000 order.

The Court was advised that this case can not be settled. Accordingly, a conference will be held on December 15, 2000 at 9:15 A.M. in Room 21B of the United States Courthouse, 500 Pearl Street, New York, New York 10007, to establish a schedule for the completion of discovery, the submission of a pre-trial order and the placement of the case on the ready trial calendar. Failure to appear at the December 15, 2000 conference may result in the imposition of sanctions including entry of a judgment against the party failing to appear.

SO ORDERED:

_____

Michael B. Mukasey,
U. S. District Judge

Dated: New York, New York
November 27, 2000

**APENDIX B (continued)**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|---|---|---|
| BEVERLY A. RIDDLE, Plaintiff, | : | |
| | : | 00 Civ. 1374 (MBM) |
| - against - | : | ORDER |
| LIZ CLAIBORNE, KATHY ROBSON, SHELLEY O'CONNELL, and KATHERINE HUDSON, Defendant, | : | |

MICHAEL B. MUKASEY, U.S.D.J.

This order embodies decisions taken at a pre-trial conference held on September 18, 2000, as follows:

(1) As agreed to by the parties plaintiff may perfect service on defendant Shelley O'Connell by mailing a copy of the summons and complaint to defendants' attorney, Kelly A. Ryan, of Grotta

Glassman & Hoffman, 75 Livingston Avenue, Roseland, New Jersey 07068-3701.

(2) Defendants are to answer the numbered paragraphs of plaintiff's amended complaint, beginning on page 2 of that complaint, by October 11, 2000.

(3) The conference scheduled in the above-captioned case for October 19, 2000 at 9:15 A.M. in Room 21B of the United States Courthouse, 500 Pearl Street, New York, New York, 10007 will proceed as scheduled. Failure to appear at the October 19, 2000 conference may result in the

imposition of sanctions including the entry of a judgment against the party failing to appear.

SO ORDERED:

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Michael B. Mukasey,
U. S. District Judge

Dated: New York, New York
September 19, 2000

**APENDIX C**

**Excerpt of Questions from the Amended Complaint for those Factual Disputes derived from the Defendant's - Respondent's Verified Rebuttal (Answer) and Position Statement**

1) An excerpt from Questions 1 through 96 from the Plaintiff's Amended Complaint filed in the Southern District Court of New York on August 25, 2000 is herein provided to demonstrate the Defendants' filing of an Evasive Answer in violation of the Plaintiff's right to due process. The following excerpt of questions listed are Questions 4, 13, 17, 22, 25, 27, 28, 29, 30, 32, 35, 38, 40, 41, 42, 49, 50, 60, 61.

2) The Plaintiffs QUESTION 4

4. On Monday, September 13, 1999, Complainant Beverly A. Riddle contested to the New York State Department of Labor, those reasons as stated by Respondents, Liz Claiborne Inc. for the Complainant's termination at Liz Claiborne Inc. Those reasons for termination given by Complainant, Beverly A. Riddle are I was terminated because I had to take off from work to see my doctor for a stress-related illness. Those reasons given by Beverly A. Riddle were held factual and accurate by The New York State Department of Labor Fact Finding Record for Discharge, Local Office #511, wherein the Employer, Respondent, Liz Claiborne did acknowledge a legal obligation to

respond. Wherein those statements made by Complainant, Beverly A. Riddle, are recognized by The New York State Department of Labor Fact Finding Record for Discharge, Local Office #511 are held as factual and accurate as deemed so under the oath of perjury.

EVASIVE ANSWER presented to Plaintiff's QUESTION 4 Defendants are without sufficient information or knowledge to admit or deny the allegations contained in paragraph 4. The allegations contained in paragraph 4 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 1) The Defendants were granted reasonable time and a privilege to respond with any material facts to The Department of Labor Fact Finding Record for Discharge, that would justify the termination of Beverly A. Riddle from her employment at Liz Claiborne, however the employer simply failed to sight job performance as a cause for the termination of Beverly A. Riddle. As a matter of fact, the Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is

An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

3) The Plaintiff's QUESTION 13

13. Where Respondent's, Liz Claiborne (the Company), Katherine Hudson, Shelley

O'Connell, Kathy Robson et al, State a claim in their Answer: The next day the October 30th, Hudson asked Complainant how she felt"

EVASIVE ANSWER presented to Plaintiff's QUESTION 13 Defendants deny the allegations contained in paragraph 13. The allegations contained in paragraph 13 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 2) The Defendants deny their own admission of acknowledgment as to the state of the Defendants health, yet in the Job Performance Review dated: March 23 1999, as administered by Katherine Hudson. It is so stated, "Beverly needs to go through a Myers-

Briggs personal style inventory to help her understand her personality type." The Myers-Briggs personal style inventory is used to determine personality type and psychological disorders through psychotherapy whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales

v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

4) Plaintiff's QUESTION 17

17. Where Respondent's, Liz Claiborne (the Company), Katherine Hudson, Shelley O'Connell, Kathy Robson et al, State a claim in their Answer: "Complainant subsequently sent the Company's CEO Paul Charron ("Charron") a letter dated November 4, 1998"

EVASIVE ANSWER presented to Plaintiff's QUESTION 17 Defendants deny the allegations contained in paragraph 17. The allegations contained in paragraph 17 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 3) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified Rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error

in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

5) Plaintiff's QUESTION 22

22. Where Respondents Liz Claiborne (the Company), et al, State a claim in their Answer: "Complainant did not tell her supervisor or Human Resources that she was disabled", "Welsh offered to send Complainant home in a car"

EVASIVE ANSWER presented to Plaintiff's QUESTION 22 Defendants deny the allegations contained in paragraph 22. The allegations contained in paragraph 22 referencing case and statutory law are legal conclusions and

therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves

ARGUMENT 4) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is

answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

6) Plaintiff's QUESTION 25

25. Question of fair and equal treatment) At question is, was Liz Claiborne made aware of the disability of Beverly A. Riddle before their threats of termination began?

EVASIVE ANSWER presented to Plaintiff's QUESTION 25 Defendants deny the allegations contained in paragraph 25. The allegations contained in paragraph 25 referencing case

and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 5) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of

questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

7) Plaintiff's QUESTION 27

27. Question of fair and equal treatment) At question is, what exactly is Beverly A. Riddle alleged to have done that was considered by Liz Claiborne as unreasonable or poor job performance?

EVASIVE ANSWER presented to Plaintiff's QUESTION 27 Defendants deny the allegations contained in paragraph 27 except to admit that Plaintiff exhibited unreasonable and poor job performance during her employment. The allegations contained in paragraph 27 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 6) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information

from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

8) Plaintiff's QUESTION 28

28. Question of fair and equal treatment) At question is, if Ms Beverly A. Riddle worked as part of a team why then was she held solely responsible for the proper completion of those team projects?

EVASIVE ANSWER presented to Plaintiff's QUESTION 28 Defendants deny the allegations contained in paragraph 28. The allegations contained in paragraph 28 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 7) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which

the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales

v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

9) Plaintiff's QUESTION 29

29. Question of fair and equal treatment) Why has the employer Liz Claiborne failed to demonstrate the job essentials in light of the fact of their claim that Beverly A. Riddle is singled out as responsible for the errors and timely completion of these team projects for which Liz Claiborne has stated were the job performance issue of Beverly A. Riddle?

EVASIVE ANSWER presented to Plaintiff's QUESTION 29 Defendants deny the allegations contained in paragraph 29. The allegations contained in paragraph 29 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit

or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 8) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover

the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

10) Plaintiff's QUESTION 30

30. Question of fair and equal treatment) At question is, why is it stated on March 23, 1999 in the 1998 Job Performance Review of Complainant, Beverly A. Riddle as administered by Katherine Hudson. It is so stated, "Beverly needs to go through a Myers-Briggs personal style inventory to help her understand her personality type." The Myers-Briggs personal style inventory is used to

determine personality type and psychological disorders through psychotherapy. If Katherine Hudson was not aware of the existence of Beverly A. Riddle's disability and why was that disability used as a job performance issue?

EVASIVE ANSWER presented to Plaintiff's QUESTION 30 Defendants deny the allegations contained in paragraph 30. The allegations contained in paragraph 30 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 9) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their

own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United

States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records. Twining v. New Jersey, 211 U.S. 78, 106, 111 S., 112, 29 S. Ct. 14., a separate issue claim.

11) Plaintiff's QUESTION 32

32. Question of Fair and equal treatment) Where it is so stated by Katherine Hudson, "Beverly needs to go through a Myers-Briggs personal style inventory to help her understand her personality type." The Myers-Briggs personal style inventory is used to determine personality type and psychological disorders through psychotherapy. What is the purpose of that statement in the job performance review administered to Beverly A. Riddle?

EVASIVE ANSWER presented to Plaintiff's QUESTION 32 Defendants deny the allegations contained in paragraph 32. The allegations contained in paragraph 32 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 10) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer

pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and to case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records. Twining v. New Jersey, 211 U.S. 78, 106, 111 S., 112, 29 S. Ct. 14., a separate issue claim.

12) Plaintiff's QUESTION 35

35. Question of fair and equal treatment) What is the basis for the decision of Liz Claiborne to delay in their investigation of those Complaints lodged by Ms Beverly A. Riddle for five (5) months from the date of the written complaint and ten (10) months from the initial verbal complaint, these Complaints were filed with Shelly O'Connell and Barbara Devine respectively at Liz Claiborne's Human Resources Department in approximately the third week of February 1998 and on June 12, 1998?

EVASIVE ANSWER presented to Plaintiff's QUESTION 35 Defendants deny the allegations contained in paragraph 35. The allegations contained in paragraph 35 referencing case

and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 11) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of

questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records. Walker v. Sauvinet, 92 U.S. 90, 23 L. ed. 678., a similar issue in equal protection of the law.

13) Plaintiff's QUESTION 38

38. Question of fair and equal treatment) At question is, why did Liz Claiborne interrogate Complainant Beverly A. Riddle with her job performance as an issue, for over ten months when Liz Claiborne had the option to act as an

at will employer and immediately terminate the employment of Beverly A, Riddle, at will?

EVASIVE ANSWER presented to Plaintiff's QUESTION 38 Defendants deny the allegations contained in paragraph 38. The allegations contained in paragraph 38 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 12) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal

(Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

14) Plaintiff's QUESTION 40

40.Question of fair and equal treatment) In response to a conversation and or letter from Beverly A. Riddle to Francine Hopkins of Labor Relations at Liz Claiborne, did Francine Hopkins protest to Beverly A. Riddle her objection in a memo dated November 6, 1998 to Reasonable Accommodation as requested by Beverly A. Riddle. In light of the circumstance as was clarified to Ms Francine Hopkins during the phone conversation was that behavior considered proper behavior for her post at Liz Claiborne?

EVASIVE ANSWER presented to Plaintiff's QUESTION 40 Defendants deny the allegations contained in paragraph 40. The allegations contained in paragraph 40 referencing case

and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 13) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of

questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

15) Plaintiff's QUESTION 41

41. Question of fair and equal treatment) Is Liz Claiborne aware of the possible emotional and derogatory implication of the little Black Comic Figure which set on Kathy Robson's Assistant, Ms Maya Feldgajer's desk whose desk was adjacent from the desk of Ms Beverly A. Riddle?

EVASIVE ANSWER presented to Plaintiff's QUESTION 41 Defendants deny the allegations contained in paragraph 41. The allegations contained in paragraph 41 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 14) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer

pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

16) Plaintiff's QUESTION 42

42. Question of fair and equal treatment) How does Liz Claiborne explain the treatment of their employees for those errors made by

employees similarly situated to Beverly A. Riddle?

EVASIVE ANSWER presented to Plaintiff's QUESTION 42 Defendants deny the allegations contained in paragraph 42. The allegations contained in paragraph 42 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 15) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information

from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

17) Plaintiff's QUESTION 49

49. On Thursday, June 11, 1998 at approximately 10:00a, I telephoned Ms. Devine to further discuss with her (Ms. Devine) the problems that I had encountered with Kathy Robson about how Ms. Robson was creating an argumentative and hostile working environment for me by yelling and screaming at me in a threatening manner. Ms. Devine interrupted me and said: "I really don't want you to go into detail about it, as I will be in a new office soon" Ms. Devine advised me to call back and speak to Shelley O'Connell and gave me the extension 5762, which was Ms. O'Connell telephone number at that time. A minute later, I telephoned back to the Human Resources Department and spoke with Shelley

O'Connell, Director, Human Resources Department and scheduled an appointment to speak to Ms. O'Connell in person about the problems I had encountered with Kathy Robson because I was uncertain how it would affect my work relations at Liz Claiborne Inc. (LCI Holdings). The appointment was scheduled for Friday, June 12, 1998 since I was unable to meet with her on the day of our conversation on June 11, 1998 due to the conflict in my schedule to do receptionist relief duty, which I explained to Ms. O'Connell and she agreed.

In Filing My INITIAL WRITTEN COMPLAINT with Shelley O' Connell, Director, Human Resources On Friday, June 12, 1998

On Friday, June 12, 1998 at 12:00 Noon, at 1441 Broadway - 19th Floor - Human Resources Department I met with Shelley O'Connell and at that meeting I submitted my initial written complaint to Shelley O'Connell to view and assess. I was hoping to get an encouraging reply that this matter could be resolved and to understand what steps would have to be taken for that resolve to take place. Ms. O'Connell made a positive reference to my resume and said: "You have excellent experience, I remember when you were hired". I, (Beverly Riddle) replied, "I enjoy working at Liz Claiborne, however, I do have a problem in my area". Then I handed her my complaint. See Exhibit of Protected Activities of Complaint, June 12, 1998 Complaint

submitted to the Liz Claiborne Inc. Human Resources Department (Shelley O'Connell) After a brief discussion, Ms. O'Connell stated: "I'll get back to you, after I speak with Katherine Hudson and Kathy Robson".

EVASIVE ANSWER presented to Plaintiff's QUESTION 49 Defendants deny the allegations contained in paragraph 49 except to admit that Barbara Devine referred Plaintiff to Human Resources Director Shelley O'Connell who met with plaintiff on or about June 12, 1998 to discuss her written complaint and that O'Connell informed Plaintiff that she would investigate her concerns and respond to her. The allegations contained in paragraph 49 referencing case and statutory law are legal conclusions and therefore Defendants are not

required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 16) By the Defendants own admission they were made aware of a complaint filed by the Plaintiff a short time before the Plaintiff was terminated, yet the Defendants claim seems to be that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of

fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

18) Plaintiff's QUESTION 50

50. After Filing My INITIAL WRITTEN COMPLAINT with Shelley O' Connell, Director, Human Resources on Friday, June 12, 1998. A week later on June 18, 1998 at 6:18pm, Ms.

O'Connell sent me a cc: Mail (electronic mail) postponing any meeting with her about my written complaint until after she (Ms. O'Connell) returned from her vacation. In Ms. O'Connell's cc: Mail (electronic mail) Ms. O'Connell stated that she was unable to link up with Ms. Hudson. To me this meant, I would have no one to help me resolve the problem of the discriminatory practices against me by Kathy Robson for at least a month, and Ms. O'Connell did not leave a name or phone number of anyone for me to contact while she was away on vacation.

EVASIVE ANSWER presented to Plaintiff's QUESTION 50 Defendants deny the allegations contained in paragraph 50. The allegations contained in paragraph 50 referencing case

and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 17) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of

questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

19) Plaintiff's QUESTION 60

60. Friday, August 14, 1998 at 2:30pm and again at approximately 5:15pm Maya Feldgajer, Laurel Pridgeon, Kristen Hughes, and Linda Grace were discussing black people at Laurel Pridgeon's workstation, approximately 7 (seven) feet from my workstation, Ms. Pridgeon said: "Blacks, Jews, and Gays, They have it all

bad". Before and after Ms. Pridgeon unsettling statement, a few of them looked in my direction giggling and laughing. Kathy Robson, Laurel Pridgeon, Katherine Hudson, Maya Feldgajer were all standing outside of Ms. Robson's Office. They were discussing the Asian people and the way the Asian people talk as Ms. Robson's often travels abroad to Liz Claiborne's (LCI Holdings) overseas offices. Ms. Robson stated how she (Ms. Robson) could not understand the Asian people and they (Asian people) should learn how to speak better English. Then, Ms. Hudson made a comment about a Hispanic Liz Claiborne employee, Ms. Dina Avraimidis, Ms. Hudson stated that when she (Ms. Hudson) speaks with Ms. Avramidis she (Ms. Hudson) doesn't

understand her (Ms. Avramidis) and Ms. Robson agreed; and everyone giggled as if it was a running joke. They were outside of Kathy Robson's Office which is approximately 7 (seven) feet from my workstation.

EVASIVE ANSWER presented to Plaintiff's QUESTION 60 Defendants deny the allegations contained in paragraph 60. The allegations contained in paragraph 60 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 18) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their

own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales

v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.

20) Plaintiff's QUESTION 61

61. Monday, August 30, 1998 I was on a (two) 2-Week vacation from, August 17, 1998 through August 28, 1998 and upon my return on Monday, August 30, 1998, the discriminatory practices and retaliatory acts begin apparently where they had left off. This time Ms. Hudson, Ms. O'Connell, Ms. Robson, and Ms. Robson Assistant, Maya Feldgajer (all white non-African Americans) began to make my job performance an issue. In doing so, implied that Blacks do an inferior job compared to people of their own race. This effort seems to have been a method of treatment mapped out by them in a systematic effort of retaliation

against me to force me to resign from my position as the Senior Administrative Assistant – Sales, Handbags and Small Leather Goods Department at Liz Claiborne. However, never were they specific of what the problems were or how those problems could be resolved. But when I was specific in the details of my unfair treatment, then approximately on October 5, 1998 and again on October 29, 1998 Ms. Hudson did in fact threaten me with a transfer and/or termination. Ms. Hudson stated: "Maybe this isn't the department you should be working in or maybe I am not the right person you should be working for" On October 29, 1998 Ms. Hudson also made Ms. O'Connell aware of the above statement that she had made to me. Thereafter on October 30, 1998,

Ms. O'Connell also threatened me with termination, stating: "You should think about exiting" In addition, Ms. O'Connell also stated: "I can not put you back in that assignment". This was in addition to Ms. Feldgajer's statement:" Kathy is going to fire you" I am convinced Ms. Hudson, Ms. O'Connell and Ms. Feldgajer made these threats of termination to me in retaliation for my whistle blowing in complaints against Ms. Robson to the Human Resources Department on June 12, 1998, October 7, 1998 October 29, 1998, October 30, 1998 because I am a Black African American making those complaints against white non-African Americans.

EVASIVE ANSWER presented to Plaintiff's QUESTION 61 Defendants deny the allegations contained in paragraph 61. The allegations contained in paragraph 61 referencing case and statutory law are legal conclusions and therefore Defendants are not required to admit or deny them. Any documents cited by Plaintiff speak for themselves.

ARGUMENT 19) The Defendants now claim that although they did give the Verified rebuttal (Answer) and Position statement from which the questions 1-96 are drawn, they deny their own statements, which were made under oath or are unable to gain sufficient information from the source of their Verified rebuttal (Answer) and Position statement whereby the Defendants answer is An Evasive Answer

pursuant to Fed. R. Civ. P. 37(3). An issue of fact is that the Defendants do not state that they could not understand the questions nor did the Defendants object to the type of questions asked. Also, an issue of law is answerable where the premise is to discover the existence of any material or creditable evidence to a claim or counterclaim. The error in law is set forth in reference to include such rules and case citing as Fed. R. Civ. P. Rule 1, Rule 11b(3) and (4) and case citing, Gonzales v. United States, 365 U.S. 59(1960)., where the plaintiff requested but was denied records.